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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,729	08/01/2001	Don Hideyasu Matsubayashi	36.P307	4313
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EXAMINER				
NASH, LASHANYA RENEE				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/919,729

**Applicant(s)**

MATSUBAYASHI ET AL.

**Examiner**

LASHANYA R. NASH

**Art Unit**

2153

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 29-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date: \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

This action is in response to the amendment filed 10 April 2008. Claims 1-28 are cancelled. Claims 29-32 are new.

### ***Response to Arguments***

Applicant's arguments with respect to newly added claims 29-32 in light of the prior art of record have been considered but are moot in view of the new grounds of rejection. This new grounds of rejection is in light of a newly found prior art reference, Brownlie (US Patent 7,174,563) as set forth below in the Office action.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Metz et al. (US Patent 5,978,855) in view of Hu (US Patent 6,173,322) and Brownlie et al. (US Patent 7,174,563) hereinafter referred to as Metz, Hu, and Brownlie respectively.**

In reference to claim 29, Metz discloses a method for downloading application software and transmitting messages through one channel of a digital broadcast network in order

to decrease bandwidth usage, (column 5, lines 14-35; column 6, lines 27-36; and Figure 1). Metz explicitly discloses:

- A method for transferring communication data in a digital cable network system (i.e. digital broadcast network; Figure 1-item 15), wherein the digital cable network system includes a sending component (i.e. cable head end; Figure 1-item 11) and a receiving component (i.e. set-box-top; Figure 1-item 100) which communicates over the network, the method comprising:
  - Determining at the sending component, a manner of transfer, transferring, from the sending component to the receiving component, a message which includes the determination results of the determining step (i.e. selectively transmits broadcasts video programming through a first one of the plurality of broadcasts channels and software through a second channel; column 5, lines 14-36);
  - Transferring the communication data from the sending component to the receiving component via direct communication responsive to the a determination of the determining step that the manner of transfer is a direct transfer (a direct connection between the CHE and the STB; column 9, lines 10-20 and column 9, lines 43-67).

However, Metz does not disclose the method: wherein the manner of transfer is selected from the group consisting of referential transfer; a direct transfer; uploading the communication data from the sending component to a predetermined location, responsive to a determination of the determining step that the manner of transfer is a referential transfer; wherein the communication data uploaded by the uploading step is received by the receiving component. Nonetheless, these would have been obvious

modifications for one of ordinary skill in the art to the aforementioned method, as further evidenced by Hu.

In an analogous art, Hu discloses a method for distribution of client requests received from a digital computer network in different selective modes (abstract). Hu further discloses the method wherein the received message (i.e. client request) is used to select a manner of data transfer, wherein the manner of transfer is selected from the group consisting of referential transfer(i.e. redirect mode) or a direct transfer (i.e. proxy mode where client contacts content server directly; column 11, line 35-column 12, line 10) using a connection from the first network computer(Figure 2-item 104), uploading the communication data from the sending component to a predetermined location (i.e. data cache at network manager/proxy; column 12, lines 54-67), responsive to a determination of the determining step that the manner of transfer is a referential transfer (i.e. network manager/proxy responds to client with reference information that allows client to contact content server through a redirection; column 12, lines 10-52); wherein the communication data uploaded by the uploading step is received by the receiving component (i.e. cached data at network manager/proxy retrieved by client; column 12, lines 54-67).One of ordinary skill in the art would have been motivated to implement this in the method as disclosed by Metz in the digital cable networking environment, so as to establish alternative manners of transfer thereby reducing delay and/or loss of data caused by transmission between two endpoints, (Hu column 1, lines 1-32). However, Metz and Hu fail to disclose the method: a manner of transfer which is selected from the group of transfer using a secure pipe; and transfer not using a secure pipe; wherein

when the determining step determines that the manner of transfer is using a secure pipe, the transferring step and the uploading step control communication by using the secure socket layer protocol. Nonetheless, these would have been obvious modifications for one of ordinary skill in the art to the aforementioned method, as further evidenced by Brownlie.

In an analogous art, Brownlie discloses the method for network security (abstract). Brownlie further discloses a manner of transfer which is selected from the group of transfer using a secure pipe; and transfer not using a secure pipe (i.e. selection of security policy rule); wherein when the determining step determines that the manner of transfer is using a secure pipe, the transferring step and the uploading step control communication by using the secure socket layer protocol (i.e. secure session pipe is secure socket layer/SSL; column 8, lines 1-25). One of ordinary skill in the art would have been motivated to accordingly modify the teachings of Metz and Hu so as to provide transfer which facilitates selection of variable security policy (i.e. secure or non secure pipe) and thereby providing flexibility of security control (Brownlie; column 1, lines 26-33).

In reference to claim 31, Metz discloses components for downloading application software and transmitting messages through one channel of a digital broadcast network in order to decrease bandwidth usage, (column 5, lines 14-35; column 6, lines 27-36; and Figure 1). Metz explicitly discloses:

- A sending component (i.e. cable head end; Figure 1-item 11) which communicates over a network to transfer communication data to a receiving component (i.e. set-box-top; Figure 1-item 100) in a digital cable network system (i.e. digital broadcast network; Figure 1-item 15), comprising:
- A determining unit (column 10, lines 55-63) constructed to determining, at the sending component, a manner of transfer, transferring, from the sending component to the receiving component, a message which includes the determination results of the determining step (i.e. selectively transmits broadcasts video programming through a first one of the plurality of broadcasts channels and software through a second channel; column 5, lines 14-36);
- A transferring unit (column 10, lines 25-54) constructed to transfer, from the sending component to the receiving component, a message which includes the determination result (column 9, lines 10-20 and column 9, lines 43-67);
- The transferring unit constructed to transfer the communication data from the sending component to the receiving component via direct communication responsive to the a determination of the determining step that the manner of transfer is a direct transfer (a direct connection between the CHE and the STB; column 9, lines 10-20 and column 9, lines 43-67).

However, Metz does not disclose the component: wherein the manner of transfer is selected from the group consisting of referential transfer; a direct transfer; uploading the communication data from the sending component to a predetermined location, responsive to a determination of the determining step that the manner of transfer is a

referential transfer; wherein the communication data uploaded by the uploading step is received by the receiving component. Nonetheless, these would have been obvious modifications for one of ordinary skill in the art to the aforementioned component, as further evidenced by Hu.

In an analogous art, Hu discloses a system for distribution of client requests received from a digital computer network in different selective modes (abstract). Hu further discloses wherein the received message (i.e. client request) is used to select a manner of data transfer, wherein the manner of transfer is selected from the group consisting of referential transfer(i.e. redirect mode) or a direct transfer (i.e. proxy mode where client contacts content server directly; column 11, line 35-column 12, line 10) using a connection from the first network computer(Figure 2-item 104), uploading the communication data from the sending component to a predetermined location (i.e. data cache at network manager/proxy; column 12, lines 54-67), responsive to a determination of the determining step that the manner of transfer is a referential transfer (i.e. network manager/proxy responds to client with reference information that allows client to contact content server through a redirection; column 12, lines 10-52); wherein the communication data uploaded by the uploading step is received by the receiving component (i.e. cached data at network manager/proxy retrieved by client; column 12, lines 54-67).One of ordinary skill in the art would have been motivated to implement this in the component, as disclosed by Metz in the digital cable networking environment, so as to establish alternative manners of transfer thereby reducing delay and/or loss of data caused by transmission between two endpoints, (Hu column 1, lines 1-32).

However, Metz and Hu fail to disclose the component: a manner of transfer which is selected from the group of transfer using a secure pipe; and transfer not using a secure pipe; wherein when the determining step determines that the manner of transfer is using a secure pipe, the transferring step and the uploading step control communication by using the secure socket layer protocol. Nonetheless, these would have been obvious modifications for one of ordinary skill in the art to the aforementioned method, as further evidenced by Brownlie.

In an analogous art, Brownlie discloses a system for network security (abstract). Brownlie further discloses a manner of transfer which is selected from the group of transfer using a secure pipe; and transfer not using a secure pipe (i.e. selection of security policy rule); wherein when the determining step determines that the manner of transfer is using a secure pipe, the transferring step and the uploading step control communication by using the secure socket layer protocol (i.e. secure session pipe is secure socket layer/SSL; column 8, lines 1-25). One of ordinary skill in the art would have been motivated to accordingly modify the teachings of Metz and Hu so as to provide transfer which facilitates selection of variable security policy (i.e. secure or non secure pipe) and thereby providing flexibility of security control (Brownlie; column 1, lines 26-33).

In reference to claims 30 and 32, Brownlie discloses wherein the uploading step further encrypts the data itself before uploading via a secure socket layer (i.e. encrypted session; column 8, lines 1-25).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **LASHANYA R. NASH** whose telephone number is (571)272-3957. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LaShanya R Nash/  
Examiner, Art Unit 2153  
August 1, 2008

/John Follansbee/  
Supervisory Patent Examiner, Art  
Unit 2151